

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	CRIMINAL NO. 4:05CR002(1)
v.	§	
	§	
JASON DERRELL JAMES	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on July 8, 2010 to determine whether the Defendant violated his supervised release. The Defendant was represented by Robert Arrambide. The Government was represented by Terri Hagan.

On August 29, 2005, the Defendant was sentenced by the Honorable Richard A. Schell, United States District Judge, to a sentence of 44 months imprisonment followed by a 3-year term of supervised release for the offense of felon in possession of a firearm. Defendant began his term of supervision on March 7, 2008.

On May 12, 2010, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (Dkt. 25). The petition asserts that Defendant violated the following

conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall not commit another federal, state, or local crime; (3) Defendant shall not unlawfully possess a controlled substance; (4) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; (5) Defendant shall not commit another federal, state, or local crime; (6) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; (7) Defendant shall not commit another federal, state, or local crime; (8) Defendant shall refrain from any unlawful use of a controlled substance, Defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court; (9) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; (10) Defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.

The petition alleges that Defendant committed the following violations: (1) Defendant was arrested on April 4, 2010, by Sherman Police Department, Sherman, TX, for stalking family violence, felony, Defendant was released on a \$10,000 surety bond on April 5, 2010, as of this writing, the case has not been filed; (2) on May 1, 2010, the Defendant was arrested by Paris Police

Department, Paris, TX for man del cs pg 1>=1G<4G (crystal methamphetamine), 2nd degree felony \$75,000 bond; man del cs pg 1>=1G drug free z1ne (crystal methamphetamine), 1st degree felony \$100,000 bond, and engage in organized criminal activity (distribution of methamphetamine), 1st degree felony \$100,000 bond, Defendant is currently in custody at the Lamar County Jail; (3) on May 1, 2010, the Defendant was arrested by Paris Police Department, Paris, TX, for possession of drug paraphernalia (digital scales, baggies, pipe), Class C misdemeanor, Defendant entered a plea of no contest and was issued a \$500 fine, in which he currently owes a balance of \$400, Defendant is currently in custody at the Lamar County Jail; (4) on May 1, 2010, the Defendant was arrested by Paris Police Department for proh weapon switchblade/knuckles (switchblade), Class A misdemeanor \$3,000 bond, Defendant is currently in custody at the Lamar County Jail; (5) Defendant admitted verbally and in writing to Senior U.S. Probation Officer Linda Werner on February 8, 2010, that he used cocaine on February 5, 2010; (6) on March 29, 2010, the Defendant submitted a urine specimen which tested positive for methamphetamine and cocaine, Defendant admitted verbally and in writing he used said drugs; (7) on April 28, 2010, the Defendant submitted a urine specimen which tested positive for methamphetamine, Defendant admitted verbally and in writing he use said drugs; (8) on May 1, 2010, the Defendant was arrested by Paris Police Department, Paris, TX, for engage in organized criminal activity (distribution of methamphetamine) with Jason Garcia.

At the hearing, Defendant entered a plea of true to the alleged violations of conditions set forth in sections (5), (8), and (9) above. Specifically, Defendant entered a plea of true as to the following violations: (5) Defendant shall not commit another federal, state, or local crime; (8)

Defendant shall refrain from any unlawful use of a controlled substance, Defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court; and (9) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician. As to all other alleged violations, Defendant entered a plea of not true. The Court finds that Defendant has violated the terms of his supervised release as to violations of conditions set forth in sections (5), (8), and (9) above and that his supervised release should be revoked. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the June 29, 2010 hearing, the Court recommends that the Defendant be committed to of the Bureau of Prisons to be imprisoned for a term of 24 months, to be served consecutively to any other time served, with no supervised release to follow.

SIGNED this 12th day of July, 2010.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE